IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

WP(C).No. 32743 of 2006(W)

PETITIONER:

DR.K.C. DEVAKUMAR, AGED 66,
S/O.CHOTHAN, VEIJIDEV, JAI NAGAR,
MEDICAL COLLEGE, THIRUVANANTHAPURAM.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM.

3. THE ASSISTANT ENGINEER,
MINOR IRRIGATION SUB OFFICE, PMG, PATTOM,
THIRUVANANTHAPURAM.

4. THE PRESIDENT, VATTIYOORKAVU
GARAMA PANCHAYAT, VATTIYOORKAVU,
THIRUVANANTHAPURAM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 32743 of 2006

Dated this 9th day of January, 2007

JUDGMENT

The learned Government Pleader on the basis of the detailed instructions given to him by the 3rd respondent Assistant Engineer submits that work so far done has been only with the objective of protecting the life and properties of a large number of public who are living on the northern side of the Manikanteswaram Perookada road. A project report is under preparation for finding a permanent solution for the flood problems in the locality. The project will be finalised only after consultation with the affected parties including the petitioner.

2. Heard Sri. Manu V., the learned counsel for the petitioner, Sri.Pirappancode V.S.Suddhir, the learned counsel for respondents 4 and 5 and Sri.Mathew G.Vadkkal, the learned Government Pleader for respondents 1 to 3. Sri.Manu would invite my attention to the sketch prepared by the Village Officer and forwarded to the Government Pleader along with the written instructions and submit that Killy river is situated hardly

100 feet away from the property in question and it is absolutely unnecessary for the 3rd respondent to have made the present arrangement of draining the excess water into the petitioner's property. They could have more effectively prevented the flooding by draining the water to the river itself, the counsel submits.

3. The standing counsel for the Panchayat submits that during monsoon the river overflows and therefore the suggestion that water can be drained to the river is not workable one. The learned Government Pleader would submit that the respondents 2 and 3 can be directed to implement the project, which is in contemplation, as a permanent solution for the floodding water in the area within the time frame.

4. Having considered the rival submissions and the various materials placed on record, I am of the view that the writ petition can be disposed of with the following directions:

The petitioner is permitted to do whatever repairs works are necessary for his compound wall and the gate. Respondents 3,4 and 5 are directed not to interfere with the agricultural

operations done by the petitioner on his property. Respondents 2 and 3 will finalise the project presently conceived by them as a permanent solution for the flood problem in the area at their earliest and at any rate by 30th May 2007. It is needless to mention that while implementing the project as a final solution, the present arrangement will be discontinued.

PIUS C.KURIAKOSE
Judge

dpk